

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NARVIEZ V. ALEXANDER,)

Petitioner,)

vs.)

HOWARD SKOLNIK, *et al.*,)

Respondents.)

3:10-cv-0584-LRH-VPC

ORDER

Narviez Alexander, a Nevada prisoner, has submitted a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254 (docket #1-3), a motion for leave to file a longer than normal petition (docket #1-2), a motion for appointment of counsel (docket #1-4), and has filed a motion for leave to proceed in *forma pauperis* (docket #3).

The financial certificate demonstrates that petitioner is unable to pay the filing fee. He shall be permitted to proceed with this action in *forma pauperis*.

The motion for leave to file a longer than normal petition, which indicates petitioner has also submitted points and authorities and exhibits in support of his petition, shall be denied. The habeas petition will be filed and docketed, and will be served upon the respondents. The memorandum of points and authorities in support of the petition, along with all exhibits shall be returned to petitioner. He may, if he wishes, utilize the brief and exhibits at a later time, if necessary.

The motion for appointment of counsel shall also be denied. There is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is

generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case are such that denial of counsel would amount to a denial of due process, and where the petitioner is a person of such limited education as to be incapable of fairly presenting his claims. See *Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970). The claims in this case are not especially complex. Also, the court notes from the petition, and from the other documents that petitioner has submitted to the court, that petitioner is able to present matters to the court in an organized and understandable manner. Petitioner's motion shall be denied.

IT IS THEREFORE ORDERED that the motion and application to proceed in *forma pauperis* (docket #3) is **GRANTED**.

IT IS FURTHER ORDER that Clerk shall **FILE AND DOCKET** the Motion for Leave to File a Longer Than Normal Petition (docket #1-2), the Petition for Writ of Habeas Corpus (docket #1-3) and the Motion for Appointment of Counsel (docket #1-4). The Clerk **SHALL NOT FILE** that Memorandum of Points and Authorities In Support of Petition or the exhibits attached to that Memorandum.

IT IS FURTHER ORDERED that the motion for leave to file a longer than normal petition is **DENIED**. The Clerk shall return the Memorandum of Points and Authorities and the exhibits to petitioner.

IT IS FURTHER ORDERED that the Motion for Appointment of Counsel is **DENIED**.

IT IS FURTHER ORDERED that the Clerk shall **ELECTRONICALLY SERVE** a copy of the petition for writ of habeas corpus, petitioner's various motions, and a copy of this order) upon respondents.

IT IS FURTHER ORDERED that the respondents shall file and serve a notice of appearance of counsel on within twenty days of service of this Order.

IT IS FURTHER ORDERED that within thirty days of service of this Order, respondents shall file and serve an answer or other response to the habeas corpus petition.

1 **IT IS FURTHER ORDERED** that, if respondents file a motion to dismiss in response to the
2 habeas petition, petitioner shall have **30 days** to respond to such motion, and respondents shall,
3 thereafter, have **20 days** to reply. If respondents file an answer in response to the petition, petitioner
4 shall have **30 days** to file a reply to the answer. The court will not entertain successive motions to
5 dismiss.

6 **IT IS FURTHER ORDERED** that, henceforth, petitioner shall serve upon the Attorney
7 General of the State of Nevada a copy of every document he submits for consideration by the court.
8 Petitioner shall include with the original paper submitted for filing a certificate stating the date that a
9 true and correct copy of the document was mailed to the Attorney General. The court may disregard
10 any paper that does not include a certificate of service. After respondents appear in this action,
11 petitioner shall make such service upon the particular Deputy Attorney General assigned to the case.

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13 DATED this 7th day of October, 2010.

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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE